

Application No.: 09/776,454

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Docket No.: 416272001500

REMARKS/ARGUMENTS

In the final Office Action dated October 22, 2004, claims 1-4, 6-8, 10, 12, 22-25, 27-35 and 37-47 were rejected. In the present response, amendments to claims 1, 2, 8, 22, 23, 29, 32, 33 and 39 have been proposed. The applicants respectfully request entry of the amendments. Claims 1-2, 4, 6-8, 10, 12, 22-23, 25, 27-33, 35, and 37-41 are pending. Claims 3, 5, 9, 11, 13-21, 24, 26, 34, 36, and 42-47 are canceled. Applicants request reconsideration of the pending claims in view of the present amendment and following remarks.

Claim Rejections – 35 USC § 112, First Paragraph, Written Description

The Examiner has rejected claims 1-4, 6-8, 10, 12, 22-25, 27-35, and 37-47 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Applicants respectfully disagree with the Examiner's grounds for rejection. However, in order to facilitate prosecution in this case applicants have amended claims 1, 22, and 32, without prejudice or disclaimer to recite "a first atopic dog" and "a second atopic dog," which as the Examiner has agreed is clearly supported by the written description of the application. In addition, in order to facilitate prosecution in this case applicants have canceled claims 42-47, without prejudice or disclaimer. Applicants respectfully request that the Examiner withdraw the written description rejection of claims 1-4, 6-8, 10, 12, 22-25, 27-35, and 37-47.

The Examiner has rejected claims 3, 24, and 34 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Applicants respectfully disagree with the Examiner's grounds for rejection. However, in order to facilitate prosecution in this case applicants have canceled claims 3, 24, and 24, without prejudice or disclaimer. Applicants respectfully request that the Examiner withdraw the written description rejection of claims 3, 24, and 34.

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Claim Rejections – 35 USC § 112, Second Paragraph, Definiteness

The Examiner has rejected claims 1-4, 6-8, 10, 12, 22-25, 27-35, and 37-47 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claims 1, 22, and 32

The Examiner has asserted that the phrase “in a dog observed after provoking by challenging in the same manner as in step (b)” is indefinite.

Applicants respectfully disagree with the Examiner's grounds for rejection. However, in order to facilitate prosecution in this case applicants have amended claims 1, 22, and 32, without prejudice or disclaimer to recite “a second atopic dog.” Applicants respectfully request that the Examiner withdraw the indefiniteness rejection of claims 1, 22, and 32 as well as the dependent claims 2-4, 6-8, 10, 12, 23-25, 27-31, 33-35, 37-47.

Claims 2, 23, and 33

The Examiner has asserted that there is insufficient antecedent basis for the limitation “the dog.”

Applicants respectfully disagree with the Examiner's grounds for rejection. However, in order to facilitate prosecution in this case applicants have amended claims 1, 22, and 32, without prejudice or disclaimer to recite “a first atopic dog” and “a second atopic dog,” respectively, each of which has clear antecedent basis in the respective claims from which they depend. Applicants respectfully request that the Examiner withdraw the indefiniteness rejection of claims 2, 23, and 33.

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Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 416272001500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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